

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF:	ADMINISTRATIVE ORDER
QUALITY MAT CO., INC.	NO. 2011-AQ- 04
Black Hawk County, Iowa	

TO: Michael Narey, Registered Agent
Quality Mat Co., Inc.
410 Rath Street
Waterloo, Iowa 50703-5052

I. SUMMARY

This Order requires you to comply with the provisions in Section V of this Order, subject to your appeal rights stated in this Order.

Questions regarding this Order should be directed to:

Relating to technical requirements:

Reid Bermel
Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
Phone: 515/281-4918

Relating to appeal rights:

Kelli Book, Attorney
Department of Natural Resources
7900 Hickman Road, Suite 1
Windsor Heights, Iowa 50324
Phone: 515/281-8563

Appeal, if any, addressed to:

Director, Department of Natural Resources
Henry A. Wallace Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

Penalty of payment to:

Department of Natural Resources
Henry A. Wallace Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

Pursuant to the provisions of Iowa Code sections 455B.134(9) and 455B.138(1) which authorize the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties, DNR has jurisdiction to issue this Order.

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III. STATEMENT OF FACTS

1. Quality Mat manufactures rubber mats and other rubber products at its facility located in Waterloo, Iowa.

2. In January 2010, DNR's Air Quality Bureau sent Quality Mat a letter informing the facility that the DNR was conducting an inventory of air pollutant emissions from minor source facilities in the eastern third of the state of Iowa. The letter included instructions on how to complete and submit the MSEIQ for the facility. The letter also included information on additional assistance for completing the MSEIQ. The letter informed the facility the MSEIQ was due May 15, 2010.

3. In February 2010, DNR sent a postcard to Quality Mat informing the facility of free MSEIQ training for submitting the report electronically.

4. In April 2010, DNR sent a postcard to Quality Mat reminding the facility of the May 15, 2010 due date for the MSEIQ submittal. The postcard included information on assistance for completing the MSEIQ.

5. On May 15, 2010, the MSEIQ for facilities in the eastern third of the state were due. Quality Mat failed to submit its MSEIQ by this date.

6. On May 26, 2010, DNR issued a noncompliance letter to Quality Mat for failing to submit its MSEIQ by May 15, 2010. The letter required the MSEIQ to be submitted by June 15, 2010. The letter stated that failure to submit the MSEIQ by June 15, 2010 could result in further enforcement, including a monetary penalty. To date, Quality Mat has not submitted a MSEIQ.

7. Quality Mat has demonstrated a past history of noncompliance with the air quality regulations. In May 1999, Quality Mat was issued a Notice of Violation letter for failing to submit a Title V Operating permit application. This violation resulted in the issuance of an Administrative Order in 2000. In May 2002, Quality Mat was issued a Notice of Violation letter for the late submittal of the Title V emissions inventory. In April 2003, Quality Mat was issued a Notice of Violation letter for the late submittal of the Title V compliance certification. In November 2004, Quality Mat was issued a Notice of Violation letter for failing to renew its Title V Operating permit. In May 2006, US EPA issued Quality Mat a Letter of Warning for violations discovered during an EPA inspection. The violations included failure to maintain the proper records and failure to submit required notifications. In October 18, 2006, Quality Mat was issued a Notice of Violation letter for the late submittal of the semi-annual monitoring report. In July 2008, Quality Mat was issued a letter for failing to submit Title V fees. In January 2009, Quality Mat was issued a letter for improper recordkeeping in accordance with Air Quality permit #99-A-024-S2.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.

2. 567 IAC 21.1(3) states that the person responsible for equipment shall provide information on fuel use, materials processed, air contaminants emitted, estimated rate of emissions, periods of emissions or other air pollution information to the Director upon the Director's written request for use in compiling and maintaining an emissions inventory for evaluation of the air pollution situation in the state and its various parts. The MSEIQ for Quality Mat was due May 15, 2010 and the facility was informed of this requirement on several occasions. To date, Quality Mat has failed to submit the MSEIQ. The above mentioned facts indicate a violation of this provision.

V. ORDER

THEREFORE, it is hereby ordered that Quality Mat does the following:

1. Quality Mat shall submit the MSEIQ for its facility within 30 days of the receipt of this Order;
2. Quality Mat shall pay an administrative penalty of \$1,500.00 within 60 days within 60 days of receipt of this Order, subject to appeal rights stated in Section VII; and
3. If the requirement referenced in Paragraph 1 of this section is not completed within 30 days of the receipt of this Order, Quality Mat shall pay a stipulated penalty in the amount of \$500.00 per month for each month the requirement in Paragraph 1 is not completed up to \$8,500.00. The stipulated penalty will be in addition to the administrative penalty assessed in Paragraph 2 of this section.

VI. PENALTY

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, the DNR

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has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order with an administrative penalty of \$1,500.00 and stipulated penalties for violations of the compliance schedule of this Order.

The stipulated penalties in this Order are for future violations, if they occur. The stipulated penalties are designed to reflect the potential economic benefit to Quality Mat for failure to make the expenditures needed to stay on schedule. Such penalties are related to the probable severity of the violation in that not meeting the compliance schedule in this Order is a fairly serious matter. The penalties would also be related to future culpability in that Quality Mat has been put on notice by this Order that stipulated penalties will result if the compliance schedule is not met. The administrative penalty is as follows.

Economic Benefit - 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that "where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit." 567 IAC 10.2(1) further states, "reasonable estimates of economic benefit should be made where clear data are not available." Quality Mat has been able to delay the costs associated with completing the MSEIQ for its facility. It is estimated that the economic benefit achieved by Quality Mat is at least \$200.00 and \$200.00 is assessed for this factor.

Gravity of the Violation - One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for that type of violation. As indicated above, substantial civil penalties are authorized by statute. Despite the high penalties authorized, the DNR has decided to handle the violations administratively at this time, as the most equitable and efficient method to resolve this matter. Quality Mat's failure to timely submit the MSEIQ prevented the DNR and the public from being aware of the facility's compliance status in regard to the rules and regulations. Failing to timely submit the MSEIQ prevents the DNR from accurately inventory minor source air pollutants. This violation threatens the integrity of the regulatory program because compliance with the reporting requirements is required of all companies such as Quality Mat. Therefore, \$500.00 is assessed for this factor.

Culpability - Quality Mat has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's rules. The facility received at least three reminder letters regarding the submittal of the MSEIQ. The facility was also provided information as to where it could obtain assistance in completing the MSEIQ. Additionally, the facility has an extensive history of air quality violations. Based on the above considerations, \$800.00 is assessed for this factor.

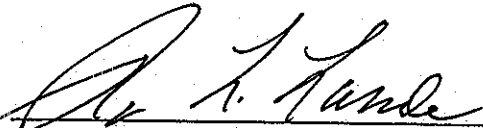
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VII. APPEAL RIGHTS

Pursuant to Iowa Code section 455B.175, and 567 IAC chapter 7, a written Notice of Appeal to the Commission may be filed within 30 days of receipt of this Order. The Notice of Appeal should be filed with the Director of the DNR and must identify the specific portion or portions of this Order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

VIII. NONCOMPLIANCE

Compliance with Sections V.1-V.2 of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order. Failure to comply with this Order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. The DNR reserves the right to issue an administrative order or to refer to the Attorney General's Office in lieu of collecting stipulated penalties pursuant to this Order.



ROGER L. LANDE, DIRECTOR
Iowa Department of Natural Resources

Dated this 4th day of
March, 2011.

AQB #07-01-119; Kelli Book; Reid Bermel, DNR Field Office 1; VII.C.3